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10/810,924	03/26/2004	Toni Kopra	872.0180.U1(US)	9401
29683	7590	10/14/2009	EXAMINER	
HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212				SAMS, MATTHEW C
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

1. Applicant's arguments filed 9/24/2009 have been fully considered but they are not persuasive.
2. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
3. In response to the Applicant's argument regarding claim 1 that "Wang's method does not involve requesting the mobile station to provide a second set of features and does not appear amendable to modification to request a second set of features from the mobile station since the method of Wang involves a first search of highly used sound files only to be followed by a second search of less highly used sound files" (Page 14), the Examiner agrees in part and respectfully disagrees in part.

The Examiner agrees that Wang does not teach a "request for a second set of features from the mobile station". However, Wang teaches the ability to perform a second search when a result is not found (Col. 19 lines 23-34), which the Examiner views as being enough reasoning to bring in the analogous art of Rhoads to teach a system for identifying audio samples (Abstract and Col. 3 lines 17-25) with the ability to extract multiple fingerprints from a file in order to resolve ambiguity (Col. 3 lines 22-25), with the additional ability to combine multiple fingerprints into a higher level fingerprint. (Col. 3 lines 6-13 "master fingerprint")

Further, with respect to the “remote service” that performs “any necessary higher level feature extraction”, the Applicant is reminded that the “remote service” has no patentable weight when determining the patentability of the claimed “apparatus” in claims 1, 48 and the “computer readable storage medium” of claim 23. Finally, a “higher level feature extraction” is not positively recited limitation (*i.e.* it is not required by the claim language), therefore the Examiner views the ability to create a “master fingerprint” as reading upon the limitation.

4. In response to the Applicant’s argument that "Rhoads, in column 3, lines 1-25, does not disclose receiving "a request message that requests at least one additional feature" (Page 16), the Examiner respectfully disagrees.

Rhoads teaches “To resolve this ambiguity, subsequent excerpt-fingerprints can be checked”. (Col. 3 lines 22-25) The Examiner notes two possible ways to identify the file, by transmitting all the fingerprints from the file at once or on an as needed basis, based on feedback. Therefore, the Examiner believes it would be obvious to one of ordinary skill in the art to try both solutions, since there is a finite number of identified, predictable solutions, each solution having a reasonable expectation of success (*i.e.* the identification of the file), in order to determine which solution resulted in the fastest identifications while using the least amount of bandwidth.

5. In response to the Applicant’s arguments regarding Vetro, the Examiner respectfully disagrees.

Applicant’s claims recite the use of “MPEG-7 descriptors”, which are well known in the art and described in Vetro. Further, the descriptors can be used like landmarks or

fingerprints to describe the location of information within a file (Vetro Col. 4 line 64 through Col. 5 line 6), which directly correlates to the use of fingerprints/landmarks for identifying a file without being able to recreate the file from the fingerprints/landmarks, thereby avoiding potential DRM issues.

/MATTHEW SAMS/

Examiner, Art Unit 2617